



VOSH PROGRAM DIRECTIVE: 09-010

ISSUED: July 15, 1997

SUBJECT: Partnership Programs

A. Purpose.

This directive transmits to field personnel the above-referenced subject. Partnership programs allow a more cooperative working relationship with regulated entities and allows leveraging of resources to address more businesses than normally possible to reach and to address difficult safety and health issues which cause significant numbers of injuries or illnesses but are not specifically addressed by standards, e.g., cumulative trauma disorders, vehicle safety, violence in the workplace, or the elimination of specific hazards, such as falls or silica exposure.

This Program Directive is an internal guideline, not a statutory or regulatory rule, and is intended to provide instructions to VOSH personnel regarding internal operation of the Virginia Occupational Safety and Health Program and is solely for the benefit of the program. This document is not subject to the Virginia Register Act or the Administrative Process Act; it does not have general application and is not being enforced as having the force of law.

B. Scope.

This directive applies to all VOSH personnel.

C. Reference.

Not Applicable.

D. Cancellation.

Not Applicable.

E. Action.

The Deputy Commissioner shall assure that each Regional Director actively seek opportunities for partnership programs with a goal of establishing at least one program by the end of October 1997. Such programs may be established with associations of employers, multi-worksites employers, or safety networks. Single worksite employers may be considered if there are exceptional benefits to be gained but, generally, a Safety and Health Achievement Recognition Program (SHARP) or Virginia Voluntary Protection Program (VVPP) is more appropriate for single worksites.

F. Effective Date.

July 15, 1997

G. Expiration Date.

July 15, 2000, unless previously extended.

H. Background.

In October of 1996, federal OSHA provided guidelines for partnership programs which allow considerable leeway for the establishment of new partnership programs. At the same time, additional funds were allowed for the development of such programs.

The VOSH program has been involved in a variety of partnership programs for many years. These have included a partnership with the logging industry which provided deferral of planned inspections for a year for those companies which agreed to participate in a training program: the Blue Ridge Safety Network and more recently the VVPP and Sharp Programs.

The Department of Labor and Industry (DOLI) has begun the development of two partnership pilot programs, one in the Valley region with the United Parcel Service (UPS), and the other one currently being developed with the Virginia Wineries Association. The UPS pilot, with UPS as a state-wide employer, will result in each UPS worksite developing a safety and health program consistent with the requirements of the Virginia Compliance Alternative Program (CAP). General schedule inspections for UPS have been deferred under that program for the period necessary to develop an approved pilot program for one worksite (not to exceed 1 year) and then for an additional period to allow introduction of the program to other worksites across the Commonwealth. DOLI will provide assistance in setting up the initial program, which will include ergonomic issues, and will then conduct follow-up inspections of selected worksites as the program develops more completely.

The partnership agreement with the Wineries Association is still in developmental stages, and includes a comprehensive training program. **PLEASE NOTE** that during the development of this program all general schedule inspections of Virginia wineries will be deferred until after this training program is conducted in August.

I. Summary.

For the purposes of this Directive, the term VOSH Partnership means:

A VOSH intervention strategy in which VOSH modifies its traditional enforcement policies in exchange for employers' and employees' achievement of or commitment to safety and health that goes beyond the minimum requirements of the Occupational Safety and Health (OSH) Act and results in a measurable, positive impact on safety and health in the workplace. This commitment must include the implementation of a comprehensive safety and health program at the workplace which provides for worker participation and compliance with applicable VOSH regulations.

These partnership programs may be established with associations of employers, multi-worksite

employers, or safety networks. Single worksite employers may be considered if there are exceptional benefits to be gained, but generally a SHARP or VVPP program is more appropriate for single worksites.

VOSH Partnerships must be rooted in the development of cooperative relationships among all three principal parties: VOSH, employers and employees. In addition, other safety and health stakeholders, as appropriate, may also be involved in the partnership.

Each partnership agreement must include a requirement that all members of the partner group develop a safety and health plan which is approved by the group and by DOLI. The agreement should include methods for the members of the partner group to share resources for training and development of their individual safety and health plans, and an internal review by the partnering group of the plan prior to acceptance of the plan by DOLI. The program should also provide for review of the implementation of the plan by other members of the group. Safety and health plans must be signed by management and by a representative of employees.

Each program must be measured to determine its effectiveness and value which requires that measures and goals be established at the beginning of each program. These measures must assess, not only the number of safety and health programs established, but also the quality of those programs, the impact on work-related injuries and illnesses, the number of employees affected, and the cost to DOLI in dollars and staff hours. These goals and measures must be agreed upon at the beginning of the partnership agreement. They will require data collection (OSHA 200, OSHA 55, OSHA 31) and cooperation from the partner group.

Partnership agreements shall be consistent with the guidelines in Attachment A and shall be submitted to the Office of Compliance Management and approved by that office and by the Deputy Commissioner prior to being signed by the Regional Director.

Theron J. Bell
Commissioner

Attachment: Appendix A

Distribution: Commissioner of Labor and Industry
Deputy Commissioner
Directors and Managers
VOSH Compliance Staff
Cooperative Programs Staff
Legal Support Staff
OSHA Regional Administrator, Region III

Core Elements

The following core elements must be addressed or included in all VOSH Partnership programs.

- **General.** Each VOSH Partnership program must be based on an analysis to determine if the particular situation lends itself to the partnership approach. Examples of possible reasons for developing VOSH Partnerships: Expanding VOSH's reach to workplaces where no intervention models presently exist; providing the agency with a means to address cutting edge issues; experimenting with abatement technologies that might prove to be as effective as or better than traditional methods, or allowing VOSH to increase its emphasis on known or traditional hazards.
- **Identification of Partners.** Priority for VOSH Partnership programs will be given to those which make the best use of agency resources, i.e., programs that have the greatest potential impact on safety and health while using the fewest agency resources. Accordingly, VOSH Partnership programs will normally be developed with groups of employers and employees and/or their representatives in high-hazard workplaces. However, VOSH may partner with employers and employees from individual workplaces or low-hazard establishments if the originating office finds it beneficial to do so, e.g., partnering with a large establishments or conducting a pilot program to test the concepts of an VOSH Partnership. Partners may either be targeted by VOSH or they may proactively seek partnership with the agency.
- **Goal.** Each VOSH Partnership program must focus on the identification and control of the most serious hazards in the workplaces covered by the partnership, e.g., hazards that are causing the most injuries or most serious injuries. Each program must contain a clearly defined goal statement which identifies: the safety and health issues the program is intended to address; expected program impact; measures to gauge successes; and time frames and VOSH's resource needs. Goals for employers, employees must be clearly articulated, measurable and capable of being verified.
- **Measurement System.** Partnership programs must contain a results-focused measurement system, developed at the outset of the program, which: uses activity, intermediate and outcome measures (including measures to address the effectiveness of leveraging); identifies baseline data and compares Lost Workday Injury and Injury/Illness rates; utilizes the OSHA 55 and OSHA 31 systems; and includes a process for evaluation (normally one year) of the partnership program to determine if it needs to be modified or discontinued.

Measures such as the experience modification rate and comparisons of pre- and post-intervention Form 33 scores, if available, should be considered for inclusion in the measurement system.
- **Safety and Health Programs.** Under any VOSH Partnerships program employers must have now or agree to implement in the near future comprehensive, effective safety and health programs for general industry or the equivalent in other industries, e.g., construction and maritime. Partnerships focused on narrow issues (e.g., a specific hazard like lead) still must require employers to have or work towards comprehensive safety and health programs.
- **Incentives.** Incentives offered to partners under VOSH Partnership programs must correspond to their

level of effort and success in providing and achieving safe and healthful working conditions and must be consistent with incentives contained in other agency programs, policies and procedures. In accordance with the foregoing statement, VOSH Partnership programs may offer the following incentives:

- Outreach and assistance during the initial implementation phase of partnership programs.
- Priority for onsite consultation through VOSH's section 7(c)(1) programs. (Note that the partnering group, and not each member separately, will have priority)
- Deferral of programmed inspections during the initial implementation phase of partnership programs.
- Lower priority for programmed inspections.
- Programmed inspections that are focused on the most serious hazards identified for the partnering workplace(s).
- Penalty reductions for any cited hazards calculated in accordance with general agency procedures that provide substantial good-faith reductions for effective safety and health programs.
- Agreement to provide positive publicity about the VOSH Partnership and the partnering establishments.

Notes:

- Exemptions from routine programmed inspections will not be provided under OSHA Partnership programs. Only worksites qualifying for the Virginia Voluntary Protection Programs (VVPP) and the Safety and Health Achievement Recognition Program (SHARP) are eligible for this incentive. However, inspections may be deferred for a reasonable period.
 - It will not be necessary for VOSH to conduct a programmed inspection of a partnering employer if the agency has already conducted a verification visit.
 - Penalty incentives will not be provided to employers until they have actually demonstrated a commitment to safety and health by implementing a workplace safety and health program rated by Form 33 at level 1 or higher.
- **Employee Involvement and Employee Rights.** Employers who partner with VOSH must demonstrate a high level of employee involvement, including involvement of employees and employee groups, such as labor unions, where employees are represented. VOSH must involve employees and their representatives at the outset as partnership programs are developed. These partnership programs must explicitly safeguard employees' exercise of their rights under the OSH Act and VOSH regulations and policy, including walkaround rights.

- **Stakeholder Involvement.** Each VOSH Partnership program must involve those stakeholders whose input and participation is important to the program’s success, both national and local stakeholders, as appropriate.
- **Verification.** To ensure that employers are upholding their responsibilities under the partnership, verification protocols must be implemented which contain a requirement for conducting verification visits/inspections of a specified percentage of employers. Verification protocols also must stipulate the need to rely on employees and the partnering group to assist in the verifications activities. The percentage of verification visits/ inspections is left to the discretion of the originating office, based on an analysis of the particular situation.
- **VOSH Inspections.** Each VOSH Partnership program must stipulate that partnering employers remain subject to VOSH inspections.
 - Unprogrammed inspections, e.g., responses to imminent danger situations and reports of serious hazards (complaints and referrals) will be conducted in accordance with established agency procedures.
 - Programmed inspections will be conducted in accordance with established agency procedures, although certain incentives may be provided (see Core Element on “Incentives”).
- **Leveraging.** In the interest of conserving VOSH resources, partnerships must contain a leveraging component which is based on an analysis of the situation for possible leveraging opportunities. (See pages A-7 and A-8 for a definition of the term “leveraging.”)
- **Termination.** The documentation for all VOSH Partnership programs must contain language which specifies the conditions under which the program will be terminated. For example: “sunset” provisions; termination if any of the three parties (VOSH, employers, employees) unilaterally withdraws from the VOSH Partnership; or termination when the goals of the program have been met. Withdrawal of one of the parties from the agreement will always result in the program’s termination.

Guidelines

The following issues should be considered in the development of VOSH Partnership programs, but they are not mandatory requirements for VOSH Partnerships.

- VOSH Partnership programs should be identified through an analysis of objective data and should support agency goals and objectives.
- Cooperative Programs should be involved at the outset in partnership planning and, as appropriate, during the implementation of the partnership program.
- Employers with a significant history of serious or repeated violations will not normally be eligible for partnerships, although exceptions are allowed.
- Partnerships may require employers to post results of self-inspections and other documents and may require employers to make reports to VOSH of their activities under the partnership.
- VOSH Partnerships will normally take the form of written agreements between VOSH and its partners, including the employers and employees.
- In most cases, VOSH partnerships will apply only to employers in Virginia. Partnerships developed in regions may extend to employers beyond that region with the approval of the VOSH Team Leader, and notification of the other Regional Directors affected.

Process Flow Model

The following non-mandatory model is provided to illustrate the implementation of core elements and guidelines for VOSH Partnerships. It is recommended that all partnership documentation include this type of process-flow information to improve understanding and awareness of all parties about what is involved in the program.

- **DEVELOPMENT PHASE**
 - Identify potential partners. In accordance with the core elements for VOSH Partnerships, these will normally be groups of employers and/or employees, not individual employers and/or employees.
 - Give priority to the development of VOSH Partnerships with high-hazard employers, although partnerships with low hazard employers would be considered, depending on the potential impact and VOSH's resource availability. Examples of potential partners:
 - < Employers who agreed to accept the partnership opportunities offered under Cooperative Compliance Programs (CCP).

The originator of an VOSH Partnership needs to be familiar with the details of the core elements described in

this Directive. However, the following table provides a quick overview of the core elements that must be included in all VOSH Partnership programs:

- Workplaces in an industry targeted by VOSH through problem solving which have hazards that are not addressed by existing standards.
- A group of employers who are members of an industry association that has expressed an interest in partnering with VOSH to address recognized hazards covered by a new VOSH standard.
- A labor union that wants to promote safety and health by employers in their industry by encouraging their entry into a tripartite partnership relationship with the area office.
- Assess the willingness of employees to participate in the partnership, and as appropriate engage them in the development of the program. (This assumes that an employer association group unilaterally approaches VOSH, seeking the development of VOSH Partnership program.)
- Identify and involve appropriate stakeholders in developing the partnership.
- Develop a clearly defined goal for the partnership, including: issues to be addressed; expected impact; activity and outcome measures to gauge success; and time frames for achieving goals.
- Work closely with all parties to identify the most serious hazards in the workplaces covered by the partnership. (This forms the basis for future focused inspections.)
- Stipulate in the program documentation the requirement to safeguard employee rights.
- Identify leveraging opportunities and incorporate into the program.
- **IMPLEMENTATION**
 - Establish a short, initial implementation phase (e.g., three months) in which the agency focuses on providing outreach and assistance to partners.
 - During this initial implementation phase, programmed inspections would be deferred. Response to unprogrammed activity would be according to existing agency policies and procedures.
 - After the specified period of time, VOSH may conduct onsite visits to verify that the agency's partners are upholding their responsibilities under the partnership program.
- **VERIFICATION**
 - Unannounced verification visits would be focused on the most serious identified hazards and would be conducted to determine whether the site is meeting the terms of the partnership and would include a site walkthrough, documentation review, and employee interviews.

- If there were no serious violations of focused hazards, the verification visit would be terminated.
- However, if serious violations were noted, the verification visit would be expanded and conducted in accordance with existing agency procedures.

- **INSPECTIONS**

Unprogrammed (Complaints, Referral, Accidents)

- In the event that OSHA receives a complaint or referral or report of imminent danger, an unprogrammed inspection would be conducted in accordance with existing agency procedures.

Programmed

- In the event that partnering employer is selected for a programmed inspection (unless deferred during the initial implementation phase), the inspection would be focused on those serious hazards identified during the development phase.
- If there were no serious violations of the focused hazards, the inspection would be terminated. However, if serious violations were noted, the inspection would be expanded and conducted in accordance with existing agency procedures.

Citations and Penalties

- Citations would be issued and penalties would be assessed in accordance with existing agency procedures. Depending on the effectiveness (Form 33) of the employer's safety and health program, penalty reductions of up to 80 percent may be provided. Additional penalty reductions would be allowed for size and history, reducing penalties to approach 100 percent total. All serious violations which become final orders, however, must have a minimum penalty.

- **EVALUATION AND TERMINATION**

- The results of the partnership will be evaluated, using the measurement system identified during the development phase.
- Depending on the outcome of the evaluation, the program may be continued, modified or terminated.
- Individual employers may be dropped from the partnership if they are not making progress towards achieving the goals of the program.

Definition of Leveraging

An important element for inclusion in all VOSH partnership programs is the need to leverage the agency's resources. In the OSHA context the term leveraging means:

The application of strategies that are designed to increase the impact of the agency's activities on workplace safety and health without the need for OSHA to devote significant (or any) additional resources to achieve the desired result. Whatever strategy is used, the ultimate impact of all leveraging activities must be a reduction in deaths, injuries and illnesses.

Leveraging involves a more efficient use of the agency's own resources to address particular issues, i. e., getting "more bang for the buck." This can be accomplished in a variety of ways through modifications to the agency's policies, processes, and approaches in dealing with employers and employees. For example, VOSH could increase its efficient use of resources by:

- Conducting outreach or training to get hazards corrected at many workplaces, instead of using the same level of resources for one-on-one activities at only a few worksites.
- Encouraging selected employers to abate hazards in advance of an on-site visit, thereby expediting the inspection process, e.g., the "carrot-and-stick" approach used in Cooperative Compliance Programs (CCP). *Note:* this is not meant to endorse the provision of advance notice of inspection to employers which, of course, is prohibited by the OSH Act.
- Promoting employers to implement safety and health programs (and evaluating those programs against a standard instrument like VOSH 33) instead of conducting traditional compliance inspections.
- Focusing enforcement efforts on those particular classes or groups of employers, industries, or hazards which are shown by data analysis to benefit from increased OSHA attention.

Leveraging also involves VOSH's increasing its effectiveness by working with persons or organizations outside the agency to achieve a common goal. Under this approach, the agency can combine its own resources with those of our public and private stakeholders, thereby achieving a synergistic effect--having an impact on safety and health beyond that available with one-on-one inspection of consultation.

SUMMARY OF CORE ELEMENTS VOSH PARTNERSHIPS	
GENERAL	<ul style="list-style-type: none"> Analyze each situation to determine if partnership is an appropriate approach.
IDENTIFICATION OF PARTNERS	<ul style="list-style-type: none"> Give priority to partnerships that make the most effective use of VOSH resources. Usually, but not always, develop partnerships with groups of employers. VOSH may target partners or partners may proactively seek partnership with VOSH.
GOAL	<ul style="list-style-type: none"> Partnerships must focus on serious hazards. Partnerships must have a clearly defined goal statement.
MEASUREMENT SYSTEM	<ul style="list-style-type: none"> Partnerships must have a results-focused measurement system, developed at the program's outset. The partnership measurement system must include intermediate and outcome measures.
SAFETY AND HEALTH PROGRAMS	<ul style="list-style-type: none"> Partners must meet/agree to meet Form 33 or equivalent levels. Narrowly focused partnerships still require comprehensive safety and health programs
INCENTIVES	<ul style="list-style-type: none"> Partnership incentives must correspond to the employers' level of effort and success in providing safe and healthful working conditions. Partnership incentives must be consistent with those offered in other agency programs. List of possible partnership incentives: <ul style="list-style-type: none"> - Outreach and assistance. - Priority for onsite consultation. - Deferral of programmed inspections. - Lower priority for programmed inspections. - Programmed inspections focused on the site's most serious hazards. - Penalty reductions for any cited hazards calculated in accordance with general agency procedures. - Agreement to provide positive publicity.

SUMMARY OF CORE ELEMENTS VOSH PARTNERSHIPS	
EMPLOYEE INVOLVEMENT/RIGHTS	<ul style="list-style-type: none"> • Partners must demonstrate a high level of employee involvement. • Partnerships must have employee involvement from the outset of the program.
STAKEHOLDER INVOLVEMENT	<ul style="list-style-type: none"> • Must involve all stakeholders whose input and participation is important to the partnership program's success.
VERIFICATION	<ul style="list-style-type: none"> • Verification visits required of a percentage of partnering employers. • Protocols must stipulate the need to rely on employees to assist in verification activities.
VOSH INSPECTIONS	<ul style="list-style-type: none"> • Partnering employers remain subject to programmed and unprogrammed inspections in accordance with agency procedures. • Incentives may be provided for programmed inspections.
LEVERAGING	<ul style="list-style-type: none"> • Partnership programs must be leveraged.
TERMINATION	<ul style="list-style-type: none"> • Language is required how the partnership will be terminated.